

**MCILS**

**April 14, 2015  
Commissioner's Meeting  
Packet**

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**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

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**APRIL 14, 2015**

**COMMISSION MEETING**

**CRIMINAL JUSTICE COMMITTEE ROOM, STATEHOUSE, AUGUSTA**

**AGENDA**

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- 1) Approval of March 10, 2015 Commission Meeting Minutes
- 2) Operations Reports Review
- 3) Budget and Legislative Update
- 4) Solicitation of "Concept" Proposals
- 5) Public Comment
- 6) Set Date, Time and Location of Next Regular Meeting of the Commission
- 7) Executive Session, if needed (Closed to Public)

**(1.)**  
**March 10, 2015**  
**Commission Meeting**  
**Minutes**

**Maine Commission on Indigent Legal Services – Commissioners Meeting**  
**March 10, 2015**

**Minutes**

**Commissioners Present:** Steven Carey, Marvin Glazier, William Logan, Kenneth Spier, Susan Roy  
**MCILS Staff Present:** John Pelletier, Ellie Brogan

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
Approval of the February 10, 2015 Commission Meeting Minutes	Copy of minutes received by all Commissioners.	Commissioner Glazier moved for the approval of the minutes. Commissioner Spier seconded. All voted in favor. Approved.
Operations Reports Review	<p>Director Pelletier presented the February 2015 Operations Reports. The number of new cases opened in DefenderData totaled 1,981 – a 70 case decrease from January. 2,443 vouchers were submitted, totaling \$1,198,787. This was a 278 voucher decrease and \$122,000 decrease from January. In February, the Commission paid 2,306 vouchers, totaling \$1,096,547, a 1,429 voucher and \$636,000 decrease from January. This sharp decrease is attributable to January being an unusually high month due to the payment of December vouchers that could not be paid due to the Q2 shortfall. The average price per voucher in February was \$475.52, an increase of \$11.58 per voucher from January. This average price has remained steady the past few months. Appeal and Post-Conviction Review cases were the highest average vouchers. Two vouchers exceeding \$5,000 were paid in January. The February transfer of counsel fees, which reflected January's collections, totaled \$58,966, up \$6,000 from the previous month. Director Pelletier received feedback from the Judicial Branch about a high number of tax offset payments being collected and that the court anticipates a high February's collection total.</p> <p>A short discussion ensued about the court's role in collecting counsel fee payments through bail. On a related matter, the court has agreed to assemble a working group to discuss a uniform procedure for addressing partially indigent defendants who default on orders to reimburse counsel fees, and Director Pelletier will follow up with the trial chiefs about the status. Chair Carey suggested that Commission staff give notice to attorneys who submit late vouchers that future late filed vouchers will not be paid.</p>	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
Budget and Legislative Update	<p>Director Pelletier updated the Commissioners on the meeting he and Chair Carey had with members of the Office of Policy and Management (OPM) concerning a forthcoming legislative proposal from the Governor to institute a new system for delivering indigent legal services. The proposal involves a system of public defender offices and contracts to deliver services and the Commission would remain in place. Chair Carey noted that he was grateful to OPM for meeting with him and Director Pelletier to discuss the proposal, but was disappointed that the Commission was not included in the drafting of the proposed legislation. OPM members, Chair Carey, and Director Pelletier will have a follow-up meeting once the language of the bill has been finalized. Chair Carey was encouraged to hear that the proposed legislation will follow the ABA 10 principles for delivery of indigent defense.</p> <p>Director Pelletier also gave the Commissioners an update about other legislative activities since the last meeting. He and Chair Carey appeared before the Judiciary Committee on March 5 to discuss the Commission's biennial budget needs. Director Pelletier noted that OPM members were also present at the hearing and briefly briefed the Committee on its forthcoming legislation impacting the Commission. The Legislative Council voted to allow consideration of two late-filed major substantive rules regarding attorney eligibility. Commissioner Logan was present at the meeting.</p> <p>Director Pelletier submitted a financial order to the Budget Office to transfer Q4 funds into Q3 to avoid a delay in payments. If the transfer does not take place, there will be a shortfall at the end of Q3 and voucher payments will be delayed for approximately two weeks. Chair Carey requested an email be sent out to rostered attorneys informing them of the potential delay in payment.</p>	
Geographic Restrictions on Court Rosters	<p>Due to the high number of attorneys being on certain rosters, Director Pelletier suggested the Commissioners review the current one-hour driving distance limitation to see if it should be revised. While Director Pelletier has communicated with court clerks about the Commission's preference for local lawyers getting the majority of the cases, paring down the rosters would limit time and travel costs and would concentrate the work to a core group of lawyers, which would in turn create efficiencies. To accomplish that, Director Pelletier offered three possible alternatives: (1) limit roster eligibility to courts within 30 miles or a thirty minute drive from the attorney's office; (2) limit travel time and mileage</p>	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
	<p>reimbursement to 30 miles and 30 minutes and allow lawyers to choose whether or not they want to remain on the roster for distant courts; and (3) implement a quota system for the number of new lawyers allowed to join the rosters in areas with a surplus of lawyers. Director Pelletier noted that option 1 would not be practical in some counties such as Aroostook and Washington and that option 2 would not serve to pare down the roster size. The Commissioners agreed that paring down the rosters is a goal worth pursuing and that any rule would need to be flexible to accommodate the needs of rural counties.</p>	
Solicitation of “Concept” Proposals	<p>Director Pelletier has not yet received a response from the director of Purchasing about the Commission’s idea to solicit concept proposals from attorneys. Commissioner Spierer suggested the Commission hold off on any immediate plans to solicit concept proposals in light of the forthcoming public defender bill since that legislation might supersede the Commission’s plans for future contracts. The Commissioners were in agreement about holding off on any immediate action on this idea.</p>	
Public Comment	<p>Robert Ruffner, Esq., submitted a public comment:</p> <ul style="list-style-type: none"> <li>Any geographic restrictions on attorney roster eligibility will present complicated questions for the Commission. He needs to get enough cases assigned to him for his business to survive and does not like the idea of a 30 minute/30 mile cap. Believes that any geographic limitation should be a conscious decision by the Commission to manage its rosters;</li> <li>The Commission should move forward with concept proposals and show an interest in investigating contracts;</li> <li>Commission staff should crunch the numbers about why voucher costs have increased;</li> <li>Indigent Defense Center is investigating a Bureau of Justice grant;</li> <li>If an opportunity to improve the indigent legal services system is presented in any proposed public defender bill, the Commission should pursue it;</li> <li>Believes the Commission should continue even if a public defender bill passes since all the work will translate.</li> </ul>	
Executive Session	None	

Agenda Item	Discussion	Outcome/Action Item/Responsible Party
Adjournment of meeting	The Commission then voted to adjourn with the next meeting to be on April 14, 2015 at 9:30 am.	Commissioner Glazier made a motion to adjourn. Commissioner Logan seconded. All present voted in favor.

**(2.)**  
**Operations Reports**  
**Review**



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**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

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**TO:** MCILS COMMISSIONERS  
**FROM:** JOHN D. PELLETIER, EXECUTIVE DIRECTOR  
**SUBJECT:** MARCH 2015 OPERATIONS REPORTS  
**DATE:** APRIL 7, 2015

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Attached you will find the March, 2015 Operations Reports for your review and our discussion at the upcoming Commission meeting on April 14, 2015. A summary of the operations reports follows:

- 2,391 new cases were opened in the DefenderData system in March. This was a 410 case increase over February.
- The number of vouchers submitted electronically in March was 2,943, an increase of 500 vouchers over February, totaling \$1,429,185.86, an increase of \$231,000 over February. In March, we paid 1,779 electronic vouchers totaling \$843,196.97. This was a 527 voucher and \$253,000 decrease from February.
- There were no paper vouchers submitted and paid in March.
- The average price per voucher in March was \$473.97, down \$1.55 per voucher from February.
- Appeal and Post-Conviction Review cases had the highest average vouchers in March. There were 2 vouchers exceeding \$5,000 paid in March. These cases involved: 1) A Termination of Parental Rights case that required 6 trial days, after which the petition was denied; and 2) an appeal from a case in which the defendant, after "firing" numerous assigned counsel, was required to represent himself at trial.

In our All Other Account, the total expenses for the month of March were \$741,719.01. Of the amount, approximately \$10,600 was devoted to the Commission's operating expenses.

In the Personal Services Account, we had \$43,686.90 in expenses for the month of March.

In the Revenue Account, our monthly transfer from the Judicial Branch for counsel fees for the month of March, which reflects February's collections, totaled \$99,692.53, up \$40,000 from the previous month due in large part to the results of the tax-offset program. In March, we used \$182,929 from this account to pay counsel vouchers through the DefenderData system. We exhausted our quarterly allotment with approximately \$27,000 in cash remaining. This money will be pulled into the fourth quarter for use paying counsel vouchers.

In our Conference Account, we collected registration fees for the upcoming criminal training on April 1st, bringing the account balance to \$21,376.53.

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

**Activity Report by Case Type**

3/31/2015

Mar-15						
DefenderData Case Type	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount
Appeal	18	16	\$28,999.63	12	\$ 19,133.28	\$ 1,594.44
Child Protection Petition	173	399	\$217,234.17	276	\$ 154,378.38	\$ 559.34
Drug Court	0	10	\$6,561.50	5	\$ 4,961.00	\$ 992.20
Emancipation	11	8	\$2,154.75	5	\$ 1,408.50	\$ 281.70
Felony	609	716	\$524,077.24	405	\$ 275,730.66	\$ 680.82
Involuntary Civil Commitment	75	50	\$10,519.27	50	\$ 10,562.07	\$ 211.24
Juvenile	120	91	\$45,240.80	68	\$ 25,180.62	\$ 370.30
Lawyer of the Day - Custody	242	216	\$43,453.52	119	\$ 24,454.89	\$ 205.50
Lawyer of the Day - Juvenile	35	41	\$7,405.09	24	\$ 3,593.92	\$ 149.75
Lawyer of the Day - Walk-in	138	124	\$27,017.92	67	\$ 14,110.33	\$ 210.60
Misdemeanor	706	830	\$306,001.61	480	\$ 181,763.69	\$ 378.67
Petition, Modified Release Treatment	0	8	\$2,433.05	7	\$ 2,519.28	\$ 359.90
Petition, Release or Discharge	0	0		0		
Petition, Termination of Parental Rights	16	53	\$40,870.20	23	\$ 25,498.53	\$ 1,108.63
Post Conviction Review	7	7	\$7,488.84	1	\$ 1,392.56	\$ 1,392.56
Probation Violation	208	194	\$73,606.06	130	\$ 45,177.68	\$ 347.52
Represent Witness on 5th Amendment	4	3	\$921.25	0		
Review of Child Protection Order	29	172	\$82,525.66	104	\$ 52,239.01	\$ 502.30
Revocation of Administrative Release	0	5	\$2,675.30	3	\$ 1,092.57	\$ 364.19
DefenderData Sub-Total	2,391	2,943	\$1,429,185.86	1,779	\$ 843,196.97	\$ 473.97
Paper Voucher Sub-Total	0	0	\$ -	0	\$ -	#DIV/0!
TOTAL	2,391	2,943	\$1,429,185.86	1,779	\$843,196.97	\$ 473.97

Fiscal Year 2015				
Cases Opened	Vouchers Paid	Amount Paid	Average Amount	
98	111	\$ 159,491.20	\$1,436.86	
1,431	2,908	\$ 1,581,653.68	\$543.90	
2	49	\$ 25,732.05	\$525.14	
100	80	\$ 23,325.06	\$291.56	
4,776	5,034	\$ 3,625,636.51	\$720.23	
631	575	\$ 127,396.54	\$221.56	
885	946	\$ 337,060.48	\$356.30	
1,897	1,711	\$ 356,435.63	\$208.32	
358	342	\$ 63,591.07	\$185.94	
1,030	944	\$ 200,929.17	\$212.85	
5,728	5,656	\$ 2,109,056.68	\$372.89	
10	44	\$ 14,609.01	\$332.02	
0	4	\$ 4,032.88	\$1,008.22	
159	469	\$ 308,151.48	\$657.04	
43	55	\$ 55,800.22	\$1,014.55	
1,474	1,386	\$ 499,618.85	\$360.48	
13	10	\$ 1,725.50	\$172.55	
324	1,472	\$ 737,262.07	\$500.86	
14	22	\$ 8,057.00	\$366.23	
18,973	21,818	\$10,239,565.08	\$469.32	
5	5	\$ 962.24	\$ 192.45	
18,978	21,823	\$ 10,240,527.32	\$ 469.25	

MAINE COMMISSION ON INDIGENT LEGAL SERVICES  
FY15 FUND ACCOUNTING  
AS OF 03/31/2015

Account 010 95F 2412 01 (All Other)		Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY15 Total
FY15 Professional Services Allotment			\$ 3,668,113.00		\$ 3,314,658.00		\$ 3,737,544.00		\$ 3,228,737.00	
FY15 General Operations Allotment			\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustment			\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustment			\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustment			\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustment			\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustment			\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustment			\$ -		\$ -		\$ -		\$ -	
<b>Total Budget Allotments</b>			<b>\$ 3,668,113.00</b>		<b>\$ 3,314,658.00</b>		<b>\$ 3,737,544.00</b>		<b>\$ 3,228,737.00</b>	<b>\$ 13,949,052.00</b>
Total Expenses		1	\$ (1,141,359.56)	4	\$ (1,567,153.86)	7	\$ (1,850,113.66)	10	\$ -	\$ (4,558,627.08)
		2	\$ (1,199,265.91)	5	\$ (1,261,558.07)	8	\$ (1,216,773.83)	11	\$ -	\$ (3,677,597.81)
		3	\$ (1,114,175.03)	6	\$ (557,133.57)	9	\$ (741,719.01)	12	\$ -	\$ (2,413,027.61)
Encumbrances			\$ (213,312.50)		\$ 71,187.50		\$ 71,062.50		\$ -	\$ (71,062.50)
<b>TOTAL REMAINING</b>			<b>\$ -</b>		<b>\$ (0.00)</b>		<b>\$ -</b>		<b>\$ 3,228,737.00</b>	<b>\$ 3,228,737.00</b>

**Q3 Month 9 (as of 03/31/15)**

INDIGENT LEGAL SERVICES	
Counsel Payments	\$ (660,267.97)
Somerset County	\$ (22,912.50)
Subpoena Witness Fees	\$ -
Private Investigators	\$ (14,035.53)
Mental Health Expert	\$ (4,447.80)
Transcripts	\$ (17,055.47)
Other Expert	\$ (11,232.50)
Expert Witness Lodging	\$ -
Process Servers	\$ (908.41)
Interpreters	\$ (101.50)
Misc Prof Fees & Serv	\$ (105.00)
<b>SUB-TOTAL ILS</b>	<b>\$ (731,066.68)</b>
OPERATING EXPENSES	
Service Center	\$ -
DefenderData	\$ (4,438.75)
Risk Management	\$ -
Mileage/Tolls/Parking	\$ (1,304.87)
Mailing/Postage/Freight	\$ (817.96)
Legal Ad	\$ -
Maine State Bar Dues	\$ -
Office Supplies/Equip.	\$ (441.18)
Cellular Phones	\$ (72.85)
Annual Book Printing Fee	\$ -
Office Equipment Rental	\$ (275.17)
OIT/TELCO	\$ (3,301.55)
<b>SUB-TOTAL OE</b>	<b>\$ (10,652.33)</b>
<b>TOTAL</b>	<b>\$ (741,719.01)</b>

INDIGENT LEGAL SERVICES	
Q3 Allotment	\$ 3,737,544.00
Q3 Encumbrance Expenditures	\$ 71,062.50
Q3 Expenses as of 03/31/15	\$ (3,808,606.50)
Remaining Q3 Allotment as of 03/31/15	\$ -

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**  
**FY15 FUND ACCOUNTING**  
AS OF 03/31/2015

Account 010 95F Z112 01 (Personal Services)		Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY15 Total
FY15 Allotment			\$ 186,226.00		\$ 181,742.00		\$ 169,447.00		\$ 139,222.00	\$ 676,637.00
Financial Order Adjustments			\$ -		\$ -		\$ -		\$ -	
Financial Order Adjustments			\$ -		\$ -		\$ -		\$ -	
Budget Order Adjustments										
<b>Total Budget Allotments</b>			<b>\$ 186,226.00</b>		<b>\$ 181,742.00</b>		<b>\$ 169,447.00</b>		<b>\$ 139,222.00</b>	<b>\$ 676,637.00</b>
Total Expenses										
	1	\$ (66,591.80)	4	\$ (49,740.31)	7	\$ (52,802.70)	10	\$ -		
	2	\$ (49,475.54)	5	\$ (50,117.29)	8	\$ (42,255.91)	11	\$ -		
	3	\$ (50,108.08)	6	\$ (70,109.34)	9	\$ (43,686.90)	12	\$ -		
<b>TOTAL REMAINING</b>		<b>\$ 20,050.58</b>		<b>\$ 11,775.06</b>		<b>\$ 30,701.49</b>		<b>\$ 139,222.00</b>		<b>\$ 201,749.13</b>

Q3 Month 9 (as of 03/31/15)		
Per Diem Payments	\$ (385.00)	
Salary	\$ (21,843.69)	
Vacation Pay	\$ (88.94)	
Holiday Pay	\$ (1,265.44)	
Sick Pay	\$ (792.49)	
Employee Hlth SVS/Workers Comp	\$ (37.00)	
Health Insurance	\$ (8,009.09)	
Dental Insurance	\$ (210.09)	
Employer Retiree Health	\$ (3,314.35)	
Employer Retirement	\$ (1,418.29)	
Employer Group Life	\$ (179.51)	
Employer Medicare	\$ (340.40)	
Retiree Unfunded Liability	\$ (3,899.57)	
Retro Pymt	\$ -	
Perm Part Time Full Ben	\$ (1,903.04)	
<b>TOTAL</b>	<b>\$ (43,686.90)</b>	

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**  
**FY15 FUND ACCOUNTING**  
As of 03/31/15

Account 014 95F 2112 01									
(Revenue)									
	Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY14 Total
<b>Total Budget Allotments</b>		\$ 149,124.00		\$ 149,124.00		\$ 149,124.00		\$ 149,125.00	\$ 596,497.00
Financial Order Adjustment	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
Financial Order Adjustment	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
Budget Order Adjustment	3	\$ -	6	\$ -	9	\$ -	12	\$ -	
Financial Order Adjustment		970.00		50,000.00		35,000.00		35,000.00	
<b>Total Budget Allotments</b>		\$ 150,094.00		\$ 199,124.00		\$ 184,124.00		\$ 184,125.00	\$ 717,467.00
Collected Revenue from JB	1	\$ 51,555.85	4	\$ 61,901.40	7	\$ 53,070.41	10	\$ -	
Promissory Note Payments		200.00		-		50.00		-	
Collected Revenue from JB	2	\$ 68,324.36	5	\$ 66,316.39	8	\$ 58,966.06	11	\$ -	
Promissory Note Payments		200.00		-		50.00		-	
Donation		1,500.00		-		-		-	
Collected Revenue from JB	3	\$ 47,842.05	6	\$ 47,640.77	9	\$ 99,692.53	12	\$ -	
Promissory Note Payments		-		50.00		50.00		-	
Returned Check		45.00		60.00		43.00		-	
<b>TOTAL REVENUE COLLECTED</b>		\$ 169,667.26		\$ 175,968.56		\$ 211,922.00		\$ -	\$ 557,557.82
Counsel Payments	1	\$ -	4	\$ -	7	\$ -	10	\$ -	
	2	\$ -	5	\$ -	8	\$ -	11	\$ -	
	3	\$ (149,124.00)	6	\$ (190,337.31)	9	\$ (182,929.00)	12	\$ -	
<b>REMAINING ALLOTMENT</b>		\$ 970.00		\$ 8,786.69		\$ 1,195.00		\$ 184,125.00	\$ 195,076.69
Total Expenses	1	\$ -	4	\$ (2,119.11)	7	\$ (1,237.19)	10	\$ -	
	2	\$ (1,344.65)	5	\$ (415.75)	8	\$ (1.50)	11	\$ -	
	3	\$ (495.00)	6	\$ (558.00)	9	\$ (1,049.00)	12	\$ -	
<b>REMAINING CASH</b>		\$ 18,703.61		\$ (17,461.61)		\$ 26,705.31		\$ -	\$ 27,947.31

<b>Q3 Month 9 (as of 03/31/15)</b>	
<b>DEFENDER DATA COUNSEL PAYMENTS</b>	\$ 182,929.00
<b>SUB-TOTAL IIS</b>	\$ 182,929.00
<b>OVERPAYMENT REIMBURSEMENTS</b>	\$ 1,049.00
State Cap Expense Q1	\$ -
Somerset County CDS	\$ -
Private Investigators	\$ -
Mental Health Expert	\$ -
Transcripts	\$ -
Other Expert	\$ -
Process Servers	\$ -
<b>SUB-TOTAL OE</b>	\$ 1,049.00
<b>TOTAL</b>	\$ 1,049.00

<b>INDIGENT LEGAL SERVICES</b>	
FY15 Allotment	\$ 717,467.00
YTD Collected Revenue	\$ 557,557.82
YTD Expenses	\$ (7,220.20)
YTD Counsel Payments	\$ (522,390.31)
Q3 Remaining Unexpended Cash	\$ 27,947.31

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**  
**FY15 FUND ACCOUNTING**  
As of 03/31/15

Account 014 95F Z112 02 (Conference Account)		Mo.	Q1	Mo.	Q2	Mo.	Q3	Mo.	Q4	FY14 Total
FY14 Carry Over			\$ 20,144.41							\$ -
Total Budget Allotments			\$ 4,000.00		\$ 20,000.00		\$ 4,000.00		\$ 4,000.00	\$ 32,000.00
Budget Order Adjustment							\$ 8,000.00		\$ 12,144.00	
Total Budget Allotments			\$ 4,000.00		\$ 20,000.00		\$ 12,000.00		\$ 16,144.00	\$ 52,144.00
Total Revenue		1	\$ 1,850.00	4	\$ 8,000.00	7	\$ 20.00	10	\$ -	
Billed Earned Revenue		1	\$ (150.00)		\$ -			11	\$ -	
		2	\$ 975.00	5	\$ 2,700.00	8	\$ 6,705.00	12	\$ -	
		3	\$ 7,575.00	6	\$ -	9	\$ 3,100.00	12	\$ -	
ACTUAL CASH BALANCE			\$ 30,394.41		\$ 41,094.41		\$ 50,919.41		\$ -	\$ 50,919.41
Total Expenses		1	\$ (76.04)	4	\$ (3,116.49)	7	\$ (4,856.96)	10	\$ -	
		2	\$ (3,293.26)	5	\$ (1,866.51)	8	\$ (97.71)	11	\$ -	
		3	\$ (402.99)	6	\$ (15,805.12)	9	\$ (75.43)	12	\$ -	
TOTAL REMAINING			\$ 26,772.12		\$ 16,684.00		\$ 21,376.53		\$ 16,144.00	\$ 21,376.53
Q3 Month 9 (as of 03/31/15)										
Collected Revenue			\$ 3,100.00							\$ 52,144.00
State Cap Cost Allocation			\$ (0.43)							\$ 20,144.41
Training Manuals Printing			\$ -							\$ 30,875.00
Refreshments/Meals/Room			\$ -							\$ (29,642.88)
Films/Materials			\$ -							\$ 21,376.53
Supplies			\$ -							
Refund for non-attendance			\$ (75.00)							
Board of Overseers Trainer Fees			\$ -							
TOTAL EXPENSES			\$ (75.43)							

FY15 Allotment	\$ 52,144.00
FY14 Carry Over	\$ 20,144.41
FY15 Collected Revenue	\$ 30,875.00
FY15 Expenses	\$ (29,642.88)
Unexpended Cash	\$ 21,376.53

**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

**Activity Report by Court**

3/31/2015

Mar-15							Fiscal Year 2015			
Court	New Cases	Vouchers Submitted	Submitted Amount	Vouchers Paid	Approved Amount	Average Amount	Cases Opened	Vouchers Paid	Amount Paid	Average Amount
ALFSC	157	213	\$141,104.07	114	\$ 84,894.88	\$744.69	1,311	1,679	\$ 1,048,966.82	\$624.76
AUBSC	125	139	\$94,169.84	88	\$ 41,029.20	\$466.24	913	889	\$ 549,526.83	\$618.14
AUGDC	88	97	\$38,919.20	51	\$ 29,969.47	\$587.64	641	746	\$ 301,546.40	\$404.22
AUGSC	126	159	\$90,008.35	68	\$ 45,735.66	\$672.58	870	938	\$ 597,730.10	\$637.24
BANDC	60	100	\$42,207.86	76	\$ 32,615.43	\$429.15	576	941	\$ 336,833.68	\$357.95
BANSC	1	1	\$583.44	0			19	25	\$ 12,914.10	\$516.56
BATSC	4	1	\$445.50	4	\$ 3,239.50	\$809.88	34	47	\$ 32,056.53	\$682.05
BELDC	23	36	\$16,202.39	28	\$ 12,348.13	\$441.00	241	323	\$ 143,665.72	\$444.79
BELSC	26	29	\$16,586.70	21	\$ 12,359.10	\$588.53	191	199	\$ 120,934.55	\$607.71
BIDDC	82	136	\$54,579.02	72	\$ 29,501.79	\$409.75	760	941	\$ 405,260.49	\$430.67
BRIDC	20	24	\$11,497.26	22	\$ 12,600.83	\$572.77	124	202	\$ 100,409.06	\$497.07
CALDC	14	16	\$7,280.24	7	\$ 4,656.03	\$665.15	113	163	\$ 75,330.76	\$462.15
CARDC	9	22	\$7,775.99	16	\$ 6,968.33	\$435.52	114	235	\$ 107,284.69	\$456.53
CARSC	22	54	\$30,080.53	22	\$ 8,691.53	\$395.07	273	309	\$ 154,320.42	\$499.42
DOVDC	21	46	\$10,251.41	10	\$ 3,061.43	\$306.14	76	150	\$ 45,891.01	\$305.94
DOVSC	0	0		1	\$ 220.00	\$220.00	4	6	\$ 905.00	\$150.83
ELLDC	21	31	\$16,973.58	26	\$ 13,165.32	\$506.36	148	310	\$ 163,865.42	\$528.60
ELLSC	5	6	\$2,740.00	4	\$ 1,261.00	\$315.25	29	54	\$ 26,782.85	\$495.98
FARDC	10	13	\$8,491.04	17	\$ 9,739.59	\$572.92	60	116	\$ 62,657.73	\$540.15
FARSC	2	2	\$275.00	2	\$ 915.70	\$457.85	14	33	\$ 18,118.29	\$549.04
FORDC	8	12	\$4,537.50	8	\$ 5,291.00	\$661.38	71	81	\$ 44,840.77	\$553.59
HOUDC	36	54	\$16,890.53	46	\$ 15,314.97	\$332.93	337	390	\$ 128,809.94	\$330.28
HOUSC	21	27	\$14,646.27	12	\$ 4,169.60	\$347.47	124	146	\$ 96,338.95	\$659.86
LEWDC	154	226	\$101,746.05	92	\$ 34,778.67	\$378.03	1,253	1,305	\$ 497,535.27	\$381.25
LINDC	15	15	\$5,663.13	8	\$ 2,655.47	\$331.93	136	151	\$ 57,354.99	\$379.83
MACDC	30	38	\$8,993.05	35	\$ 11,608.06	\$331.66	236	274	\$ 93,766.85	\$342.21
MACSC	13	23	\$10,623.40	10	\$ 7,241.24	\$724.12	119	128	\$ 57,690.52	\$450.71
MADDC	3	1	\$316.36	0			12	10	\$ 4,330.02	\$433.00
MILDC	0	0		0			8	16	\$ 4,082.82	\$255.18
NEWDC	20	33	\$9,442.51	16	\$ 5,380.32	\$336.27	204	255	\$ 81,562.55	\$319.85
PORDC	89	119	\$62,326.12	116	\$ 47,182.06	\$406.74	822	1,147	\$ 511,166.66	\$445.66
PORSC	5	7	\$1,908.00	5	\$ 3,058.50	\$611.70	33	37	\$ 31,060.68	\$839.48
PREDC	23	44	\$18,709.31	23	\$ 9,046.58	\$393.33	226	355	\$ 128,396.91	\$361.68
RODC	39	53	\$18,658.42	37	\$ 14,832.00	\$400.86	403	476	\$ 172,850.36	\$363.13
ROCSC	39	32	\$14,899.91	29	\$ 13,883.82	\$478.75	248	268	\$ 147,211.89	\$549.30
RUMDC	20	8	\$6,085.96	4	\$ 1,352.50	\$338.13	118	139	\$ 68,719.24	\$494.38
SKODC	17	39	\$21,292.11	20	\$ 8,589.90	\$429.50	125	341	\$ 147,586.89	\$432.81
SKOSC	0	0		0			3	7	\$ 2,871.50	\$410.21
SODC	29	39	\$6,808.50	29	\$ 9,732.36	\$335.60	248	296	\$ 98,817.26	\$333.84
SOUSC	31	38	\$15,495.10	23	\$ 11,941.26	\$519.19	342	374	\$ 186,870.90	\$499.65
SPRDC	81	69	\$31,981.81	48	\$ 26,873.90	\$559.87	527	583	\$ 262,118.64	\$449.60
Law Ct	16	9	\$15,108.35	9	\$ 9,701.51	\$1,077.95	77	73	\$ 105,230.02	\$1,441.51
KENCD	0	0		0			0	0		
PENCD	168	200	\$94,813.30	118	\$ 51,863.35	\$439.52	1,575	1,651	\$ 781,466.90	\$473.33
SAGCD	31	23	\$25,832.80	12	\$ 6,850.16	\$570.85	209	190	\$ 108,896.11	\$573.14
WALCD	0	0		0			0	0		
PISCD	15	14	\$5,667.64	4	\$ 511.50	\$127.88	138	122	\$ 25,214.20	\$206.67
HANCD	62	59	\$25,399.75	48	\$ 14,441.13	\$300.86	364	305	\$ 111,281.14	\$364.86
FRACD	75	61	\$27,468.17	47	\$ 18,002.29	\$383.03	472	392	\$ 136,240.67	\$347.55
CUMCD	375	387	\$198,681.43	202	\$ 111,269.00	\$550.84	2,745	2,580	\$ 1,345,243.91	\$521.41
KNOCD	0	0		0			0	0		
SOMCD	2	4	\$5,615.00	0			4	5	\$ 5,128.30	\$1,025.66
LINCD	0	0		0			0	0		
WATDC	39	74	\$27,356.94	52	\$ 19,413.81	\$373.34	410	515	\$ 174,907.22	\$339.63
WESDC	41	37	\$14,041.72	18	\$ 5,425.09	\$301.39	254	290	\$ 92,940.19	\$320.48
WISDC	34	27	\$6,466.56	21	\$ 4,205.96	\$200.28	252	248	\$ 69,450.38	\$280.04
WISSC	26	25	\$13,104.22	26	\$ 11,260.73	\$433.11	219	202	\$ 91,758.24	\$454.25
YORDC	18	21	\$8,434.52	12	\$ 4,347.31	\$362.28	148	160	\$ 62,823.74	\$392.65
<b>TOTAL</b>	<b>2,391</b>	<b>2,943</b>	<b>\$1,429,185.86</b>	<b>1,779</b>	<b>\$ 843,196.97</b>	<b>\$473.97</b>	<b>18,973</b>	<b>21,818</b>	<b>\$10,239,565.08</b>	<b>\$469.32</b>



# MAINE COMMISSION ON INDIGENT LEGAL SERVICES

## Number of Attorneys Rostered by Court

03/31/2015

Court	Rostered Attorneys	Court	Rostered Attorneys
Alfred Superior Court	118	Portland District Court	159
Auburn Superior Court	118	Presque Isle District Court	13
Augusta District Court	102	Rockland District Court	52
Augusta Superior Court	97	Rumford District Court	27
Bangor District Court	61	Skowhegan District Court	32
Belfast District Court	50	South Paris District Court	69
Biddeford District Court	140	South Paris Superior Court	66
Bridgton District Court	105	Springvale District Court	125
Calais District Court	13	Unified Criminal Docket Augusta	93
Caribou District Court	17	Unified Criminal Docket Bangor	62
Caribou Superior Court	20	Unified Criminal Docket Bath	92
Dover-Foxcroft District Court	29	Unified Criminal Docket Belfast	41
Ellsworth District Court	45	Unified Criminal Docket Dover-Foxcroft	26
Farmington District Court	28	Unified Criminal Docket Ellsworth	40
Fort Kent District Court	9	Unified Criminal Docket Farmington	29
Houlton District Court	16	Unified Criminal Docket Portland	151
Houlton Superior Court	18	Unified Criminal Docket Rockland	40
Lewiston District Court	144	Unified Criminal Docket Skowhegan	21
Lincoln District Court	32	Unified Criminal Docket Wiscasset	73
Machias District Court	18	Waterville District Court	60
Machias Superior Court	14	West Bath District Court	112
Madawaska District Court	10	Wiscasset District Court	81
Millinocket District Court	23	York District Court	114
Newport District Court	42		

**(3.)**  
**Budget & Legislative**  
**Update**

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**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

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**TO:** MCILS COMMISSIONERS  
**FROM:** JOHN D. PELLETIER, EXECUTIVE DIRECTOR  
**CC:** ELLIE BROGAN, DEPUTY EXECUTIVE DIRECTOR  
**SUBJECT:** BUDGET AND LEGISLATIVE UPDATE  
**DATE:** APRIL 7, 2015

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The Appropriations Committee held a public hearing on our biennial budget on March 17<sup>th</sup>. As you know, the Governor's proposed budget did not include any additional funding for MCILS. Chair Carey and I appeared at the hearing and presented our budget proposal, a copy of which is attached.

On March 25<sup>th</sup>, the Judiciary Committee held a work session on our biennial budget and endorsed the full amount we need to cover our projected increased costs, irrespective of any hourly rate increase, for the next biennium. The Committee also addressed funding required for an increase in the hourly rate and voted to include funds necessary to raise the hourly rate to \$60/hr. beginning July 1, 2015 and \$65/hr. beginning July 1, 2016 in their budget recommendation to the Appropriations Committee. That recommendation will form the basis for further consideration of our biennial budget by the Appropriations Committee later in the spring.

In the meantime, our request for supplemental funding for the balance of this fiscal year has received favorable consideration by the Legislature. On March 18<sup>th</sup>, the Appropriations Committee tentatively voted to add the full amount of our request to an emergency funding bill under consideration. The funding remained in the bill ultimately voted out by the committee, and that bill was enacted by the Legislature on March 31, 2015. The bill is now awaiting action by the Governor.

On April 2nd, the Judiciary Committee held a public hearing on our three major substantive rules – fee increase, authority to remove counsel from the roster, and specialized panels - and on LD 360, a proposed change to our confidentiality statute making information gathered during a Commission investigation of assigned counsel confidential. A copy of LD 360 is attached. Chair Carey and I appeared and testified. There was no other public testimony on the rules or the bill. A work session has yet to be scheduled.

Finally, we did not receive authority to pull funds from the fourth quarter into the third quarter to alleviate an anticipated shortfall. As a result, we were unable to pay vouchers submitted on or after March 4<sup>th</sup> until April 1<sup>st</sup>. Our shortfall for the year grew from \$430,000 at the end of the second quarter to \$503,000 at the end of the third quarter.

## MAINE COMMISSION ON INDIGENT LEGAL SERVICES

### Biennial Budget Change Request

<b>Projected FY'15 All Other Expenditure</b>	<b>\$15,627,052</b>	
	<b>FY-16</b>	<b>FY-17</b>
Baseline Budget	\$13,949,052	\$13,949,052
<b>Additional need at Current hourly rate</b>	<b>\$2,928,164</b>	<b>\$4,278,341</b>
Total All Other need At current hourly rate	\$16,877,216	\$18,227,393

### BUDGET NARRATIVE

#### Projected Increased Costs

Note that the budget as presented contains no increase in All Other funding and maintains that funding at the current baseline budget. During the Commission's first four years of operation, costs for indigent legal services have risen by an average of approximately 8.0% per year. Accordingly, the Commission has incorporated this rate of increase into its cost projections in hopes of fully funding Commission operations and ending the need for yearly supplemental funding that the Commission has encountered to date. In assessing the amounts above, note that the increases are over the Commission's baseline budget, but the baseline budget amount is significantly less than the Commission's projected need for FY'15.

The provision of indigent legal services is a constitutional obligation of the State. The budget for indigent legal services has two prominent features. First, recent history shows that the cost of indigent legal services goes up from year to year. Second, the drivers of cost increases for indigent legal services are beyond the control of the agency providing those services.

Attached are two documents that show the cost of indigent legal services from fiscal year 2000 through fiscal year 2014.<sup>1</sup> The multicolored document reflects a 10-year period when the

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<sup>1</sup> Note that the documents do not contain data for FY'10, the last year that the Judicial Branch oversaw indigent legal services prior to the Commission's creation and operation of the system.

Judicial Branch oversaw indigent legal services.<sup>2</sup> During that period, costs increased year-over-year in all but FY'10, increasing by more than \$800,000 four times and by more than \$1.2 million twice. The second document, entitled "Four-Year Trend Data," shows the cost of providing indigent legal services during the four years that the MCILS has operated the system. The MCILS data reflect a cost trend similar to that seen when the Judicial Branch oversaw the system.<sup>3</sup>

The increased costs reflected in these documents result from societal trends and policy decisions that are beyond the control of either the Judicial Branch or MCILS. For example, 1) technology improvements have enabled police and prosecutors to identify violations of bail conditions much more readily, resulting in a very large increase in the number of new criminal cases relating to violation of bail conditions; 2) the recent proliferation of audio and video recordings increases the hours required by defense counsel to review and analyze evidence and often requires expenditures to transcribe such recordings; 3) the proliferation of criminal code provisions that increase the class of a crime based on prior convictions makes representation on the enhanced crime more expensive in general and often generates specific costs for attorney hours and transcripts necessary to challenge the constitutionality of the prior convictions; 4) the recent rise in the prevalence of child abuse and neglect, which declined in the late 2000's, has resulted in substantial increases in the number of child protection cases brought by DHHS in recent years; 5) the increased prevalence of mental illness among criminal defendants makes cases more complicated and increases costs for mental health experts; 6) the increased use of cell-phone location data by prosecutors has resulted much more complicated cases and the need for expert assistance unheard of a few years ago; 7) the new Mainer population presents cases that are complicated by immigration consequences and the need for interpreter services; and 8) jail consolidation has increased lawyer time and travel costs associated with representing a defendant housed far from the court in which the defendant is charged. Other examples of cost drivers could be cited, but suffice it to say that the cost of indigent legal services has and will increase based on factors beyond MCILS control.

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<sup>2</sup> This document is provided to illustrate cost trends. The actual costs are not a direct comparison to Commission costs because the Judicial Branch data reflects costs for the guardian ad litem system in child protection cases that did not transition to the Commission and remains funded within the Judicial Branch budget.

<sup>3</sup> Note that during the entire period covered by these two documents, the rate of pay for assigned counsel was \$50.00/hr., which had been constant since 1997. For FY'15, the rate of pay increased to \$55.00/hr., and the increased rate should be considered when assessing increased costs for FY'15.

## Hourly Rate Increase

	FY-16	FY-17
Total All Other need At current hourly rate	\$16,877,216	\$18,227,393
Increment needed to Raise rate to \$60/hr.	\$1,474,790	\$1,592,773
Increment needed to Raise rate to \$65/hr.	\$2,949,581	\$3,185,547
Increment needed to Raise rate to \$70/hr.	\$4,424,371	\$4,778,320
Increment needed to Raise rate to \$75/hr.		\$6,371,094

Regarding an increase in the hourly rate paid to attorneys providing indigent legal services, that rate is governed by a Fee Schedule rule promulgated by the Commission. The Commission's statute makes any rulemaking with respect to the hourly rate major substantive. The Commission has provisionally adopted an amendment to the Fee Schedule that would raise the hourly rate to \$70.00/hr. for FY'16 and \$75.00/hr. for FY'17 and beyond. This provisionally adopted major substantive rule has been submitted to the Legislative Counsel and has been referred to the Judiciary Committee for its review. For purposes of legislative consideration, the amounts needed for a variety of rate increase levels are set forth above. Note that even if the proposed rates were fully implemented, the rate paid to attorneys providing constitutionally required legal services would still be well below what large law firms charge their clients for paralegal services.

The hour rate paid to counsel providing indigent legal services was set at \$50/hr. in 1997 and remained unchanged until July 1, 2014, a period of 17 years. Considering inflation, the current rate of \$55/hr. continues to provide substantially less compensation than attorneys received in 1997. The current rate of compensation endangers the Commission's ability to attract and retain the experienced, qualified counsel necessary to providing quality indigent legal services. Accordingly, the Commission believes the hourly rate should be increased to \$70/hr. beginning July 1, 2015 and to \$75/hr. beginning July 1, 2016.

### **Other Special Revenue Funds**

	<b>FY-16</b>	<b>FY-17</b>
Current Total Allotment	\$628,497	\$628,497
Counsel Fee Reimbursement	\$596,497	\$596,497
Conference – Training	\$32,000	\$32,000
Increases Requested		
Counsel Fee Reimbursement	\$124,000	\$140,000
Conference – Training	\$25,000	\$25,000
<b>Requested Total Allotment</b>	<b>\$777,497</b>	<b>\$777,497</b>

The Commission currently maintains two Other Special Revenue accounts. One is for reimbursements collected from people receiving indigent legal services and the other is for training provided to assigned counsel at counsel's expense.

The reimbursement account has performed well and consistently exceeds the baseline allotment. To date, allotment adjustments have been made through the financial order process to allow the Commission to spend all the reimbursements it collects. Raising the allotment in this account to keep pace with increasing collections would more accurately reflect anticipated revenue and eliminate the need for repeated financial orders.

The Commission has increased its training activities such that the total cost of training exceeds the amount allocated to the training account. Note that the trainings are totally funded from registration fees collected from counsel attending the training. Financial orders have been required to increase budget authority to cover the cost of these trainings. Increasing the training account allotment would eliminate the need for repeated financial orders.



# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

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Legislative Document

No. 360

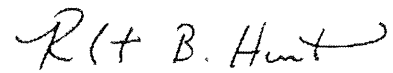
H.P. 247

House of Representatives, February 12, 2015

**An Act To Clarify That the Information Gathered during  
Investigations of Attorneys by the Maine Commission on Indigent  
Legal Services Is Confidential**

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Reference to the Committee on Judiciary suggested and ordered printed.

  
ROBERT B. HUNT  
Clerk

Presented by Representative SHERMAN of Hodgdon.  
Cosponsored by Representatives: NUTTING of Oakland, SKOLFIELD of Weld.



**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 4 MRSA §1806, sub-§2, ¶F**, as enacted by PL 2011, c. 260, §1, is amended to read:

F. Any information obtained or gathered by the commission when performing an evaluation or investigation of an attorney is confidential, except that it may be disclosed to the attorney being evaluated or investigated.

## SUMMARY

This bill clarifies that information obtained or gathered by the Maine Commission on Indigent Legal Services when the commission is performing an investigation of an attorney is confidential. The bill retains the provision of current law that provides that information obtained or gathered by the commission when performing an evaluation of an attorney is confidential.

**(4.)**  
**Solicitation of “Concept”**  
**Proposals**

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**MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

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**TO:** MCILS COMMISSIONERS  
**FROM:** JOHN D. PELLETIER, EXECUTIVE DIRECTOR  
**CC:** ELLIE BROGAN, DEPUTY EXECUTIVE DIRECTOR  
**SUBJECT:** REQUEST FOR CONCEPT PROPOSALS  
**DATE:** APRIL 7, 2015

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As requested, I have reached out to the state's Director of Purchases regarding the Commission's ability to solicit concept proposals for contracts as a means to provide indigent legal services. His response, a copy of which is attached, analogizes such a request to "market research" and states that as long as no formal RFP has been issued, there is no prohibition on communicating with potential providers. Below is a draft solicitation for discussion at our April meeting.

"Attorneys:

The Commission has been discussing whether to expand the use of contracts with attorneys, law firms, or groups of attorneys and/or law firms as a means for delivering indigent legal services. The Commission is seeking feedback as to whether expansion of the contract model makes sense for Maine, and if so, whether there is interest amongst attorneys in submitting proposals for such arrangements.

This is not a formal "Request for Proposals (RFP)," and no decision has been made whether to issue a formal RFP. The Commission is hoping for feedback that will inform any decision on whether to issue an RFP, and if so, what criteria to include in an RFP. As any RFP would be price competitive, the Commission is not looking for detailed cost information, but rather, a conceptual description of the nature of arrangement(s) responders might have interest in proposing. Finally, the Commission would also be interested in comment from attorneys who do not believe that the use of contracts should be expanded.

Please forward any comments to Executive Director John Pelletier, [john.pelletier@maine.gov](mailto:john.pelletier@maine.gov), or Deputy Director Ellie Brogan, [ellie.brogan@maine.gov](mailto:ellie.brogan@maine.gov)."

## Pelletier, John

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**From:** Lutte, Mark  
**Sent:** Tuesday, March 17, 2015 8:58 AM  
**To:** Pelletier, John  
**Cc:** Lewis, Chad  
**Subject:** RE: Contract Proposals for MCILS

Hello John,

My apologies -- I am just seeing your email below. I hope this information is not coming too late.

In short, as long as you do not have a "live" RFP currently issued for these services, there is no prohibition on communicating with your potential providers, and better understanding where their skills/interests intersect with your needs. I would consider this all "market research" in your case.

Once you reach a point where an RFP has been issued, that is the only point where you may need to be more careful with your communications, so you are not giving any one potential bidder an advantage (which I know wouldn't be your intention -- but could be misinterpreted by others).

Best Regards,  
Mark

Mark Lutte  
Director, State of Maine Division of Purchases

-----Original Message-----

**From:** Pelletier, John  
**Sent:** Tuesday, March 03, 2015 8:14 AM  
**To:** Lutte, Mark  
**Subject:** Contract Proposals for MCILS

Good morning Mark:

The expansion of contracts for delivery of indigent legal services is an issue on the table before our Commissioners. The Commissioners would like more information before making any decision on whether to issue one or more RFP's.

The Commissioners asked me to inquire whether the purchasing rules would prohibit us from contacting all of our attorneys with a request that anyone interested submit concept proposals outlining the type of groups or entities they would consider forming to deliver indigent legal services and the scope of services such entities would perform. With information in hand about what, if any, types of proposals the Commission might receive, the Commissioners would be in a better position to decide whether to issue formal RFP's and what criteria to include in an RFP.

So, again, the question is whether such informal information gathering would be permitted under the State's general purchasing rules. Any guidance you can provide would be greatly appreciated.

Thanks. John